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1948.

File No. O/G.C.A/48

G **BRANCH**

Subject:— Opinion on the General clauses Act, 1897.

P2/E

File No. O/G.C.A/48

Gen. 194 e.

G/12/48

C O N T E N T S .

Legal Department File No. O. /General Clauses /48.

Sr. No.	R. I. / O. No.	Subject	Pages .
		Opinions on the General Clauses Act, 1897.	
1.	G/681 27-11-1948.	Section 26 Whether the contention of the Police Prosecutor that there is only one punishement even if the person is charged under two orders, is correct.	1-2.

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Office of the R.L.A.

Section 26 of the General Clauses Act, 1897, provides that when an act or omission constitutes an offence under two or more enactments, then the offender shall be liable to be prosecuted and punished under either or any or those enactments, but shall not be liable to be punished twice for the same offence. Courts have experienced difficulty in many cases in deciding purely when the offences constituted by an act are " the same offence ". However, following the commonsense view which commended itself to Beaument C.J. in A.I.R. 1931 Bombay 409, it must be said that in the case under consideration there is only one act and offence viz., removing the cloth to Pakistan. It would, therefore, seem that it cannot be punished twice. Punishment for an offence under the Essential Supplies (Temporary Powers) Act, 1946 is 3 yearse with or without fine but this has been enhanced to 7 years and fine under the Bombay Essential Supplies (Temporary Powers and the Essential Commodities and Cattle (Control) (Ehhancement of Penalties) Act, 1947 which also lays down that the punishment shall not be less than six months except for reasons to be recorded in writing. The punishment for an offence under the Imports and Exports (Control)Act, 1947 is only one year with or without fine. The consideration of higher punishment should therefore weigh with the Departement before passing orders of withdrawal of prosecutions under one or the other enactment.

Id/- P.M.L.
dt/- 25/11/

Remembrancer of Legal Affairs.

U.O.R. to the C.S.D. No. 91681 ,dated the 27th Nov. 1948.

V.V.K. 10/7/56/

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